



United States Department of Agriculture  
Food and Nutrition Service

Southeast Region

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**Reply to**

**Attn. of:** SERO Policy

June 24, 2003

**Subject:** CACFP Policy Memorandum 226.14-02: Assessing Interest on Institution Overclaims –  
Questions and Answers

**To:** All State CACFP Directors  
Southeast Region

A number of questions have arisen regarding the CACFP requirement that a State agency assess interest beginning with the State agency's initial demand for an institution's repayment of an overclaim. Some of these questions involve only Program policy, while others concern the actual accounting procedures that states and Regional Offices will need to follow to report interest recoveries. Still other questions raised crosscutting issues that have been addressed jointly by Program and Financial Management (FM) staff.

This policy memorandum responds to both Program and FM policy issues raised to date. Child Nutrition Division and Financial Management Division will develop written guidance addressing both Program and FM issues that will be issued as an amendment to the CACFP cost instruction, FNS Instruction 796-2, Rev 3.

Please share this information with your institutions as appropriate and implement the necessary procedures where required. If you have questions about the attachment, please contact my CACFP staff.

PEGGY FOUTS  
Regional Director  
Special Nutrition Programs

Attachment

## Attachment

Question 1: Why do states have to assess interest against sub-grantee debts in the CACFP?

Answer: 7 CFR Part 226.14(a), effective July 29, 2002, states, "The State agency may permit institutions to pay overclaims over a period of one or more years. However, the State agency must assess interest beginning with the initial demand for remittance." As such, this is a requirement mandated by federal regulations and is not discretionary.

Question 2: Does this requirement to assess interest apply to all Special Nutrition programs?

Answer: Although we would encourage states to charge interest on a consistent basis for all programs, this specific citation establishes a regulatory requirement only for the CACFP. For other programs, we have historically directed that states follow their own process and state laws when charging interest.

Question 3: Will states be required to assess interest at one uniform rate? If so, what rate should be used?

Answer: Yes, states are required to use the same rate. The appropriate rate to use is the Current Value of Funds Rate (CVFR), which is published by Treasury in the Federal Register. This rate is the default rate for assessing interest on all debts owed to the Federal Government.

Question 4: What is the current CVFR?

Answer: The current rate, effective January 1, 2003, through December 31, 2003, is 2.0%

Question 5: Where can states find out what the appropriate interest rate is?

Answer: The rate is published annually by Treasury in the Federal Register, and it is available on the Financial Management Service website homepage using the following link: <http://www.fms.treas.gov>. If there are problems finding the correct rate, states may contact the SERO for assistance.

Question 6: When must the State agency (SA) start to assess interest on new debts?

Answer: Interest must be assessed on debts established on or after July 29, 2002, the implementation date of the interim regulation.

Question 7: Which debts are affected by this requirement?

Answer: All CACFP debts established on or after July 29, 2002, that are not repaid in full within 30 days from the date of the initial billing letter. This includes the unpaid balance of a debt under a repayment plan, when the debt was established on or after July 29, 2002. For example, the SA bills a CACFP sponsor for an overclaim of \$100 on September 1, 2003. (The initial billing letter must advise the sponsor that interest will be assessed on debts not paid in full within 30 days). On October 1, 2003, the state has received no payment or contact from the sponsor. The state would send a second billing letter (per 226.14(a)) stating

that the debt is now delinquent and interest for the month of September has been added to the bill.

Question 8: Does this affect debts established before July 29, 2002, already being collected under a repayment plan?

Answer: No. Debts that were already under an agreed upon repayment plan prior to the effective date of the regulation will not be affected. These debts should continue to be collected in accordance with the existing agreement.

Question 9: If an institution has not repaid a debt or agreed to a repayment plan and the SA is currently pursuing that debt, should interest be assessed if the debt was established before the effective date of the interim rule?

Answer: Yes, however, the SA must restart the billing process. This means the SA must issue a new billing letter that conforms to the requirements of the interim rule. If the institution was previously provided with the opportunity to appeal the overclaim and the SA prevailed in that appeal or the institution did not exercise its right to appeal, a new right to appeal would not be offered. However, if the institution was not offered appeal rights, the new billing letter would provide the right to appeal the cause of the overclaim, but not the assessment of interest.

Question 10: As a follow-up to Question 9, since failure to repay a debt now requires the SA to initiate termination proceedings, shouldn't the SA propose to terminate and disqualify the institution instead of issuing a new billing letter?

Answer: It depends on where the SA is in the demand for repayment process. Question 9 deals with a situation where the SA is still in the process of trying to recover funds, such as issuing one of the three demand for repayment letters required under 7 CFR Part 226.14. After the SA has issued the three demand letters and full repayment or a repayment plan does not occur, or when the SA has determined that issuing all three letters would be fruitless, the SA must rebill the debtor for the entire unpaid balance. In addition, the debtor must be notified that the debt will be charged interest at the current rate from the date of this billing letter unless it is paid in full within 30 days. Finally, the debtor must be notified that s/he is seriously deficient for failure to repay the debt. The action required to correct this serious deficiency is payment of the delinquent portion of the repayment plan within 30 days and timely remittance of all future payments due under the repayment plan (plus the interest that will now accrue on the unpaid balance of the debt). If repayment does not occur or the debtor again defaults on the repayment plan, the SA would proceed to issue a notice of intent to terminate.

Question 11: What about written off debts?

Answer: Debts that are written off as uncollectible are removed from the SA's accounting records. If after doing so, information becomes available to the SA that a resumption of collection activity may result in successful collection, the debt may be put back on the SA's books as a new debt. The SA would issue a new billing letter advising the debtor that the debt will be charged interest at the

current rate, from the date of the billing letter, unless it is paid in full within 30 days.

Question 12: How is interest to be calculated?

Answer: It should be based on simple (not compound) interest, calculated monthly. The amount of interest assessed each month should be computed using the unpaid balance of the principal. (An example is included at the end of the Qs and As.)

Question 13: When does interest begin to accrue on a debt?

Answer: Although interest "accrues" beginning with the date of the original demand letter (Day 1), interest is not actually "charged" or assessed to the debt until Day 31. For example, a debtor is billed on April 1 for \$100. If the bill is paid in full by April 30, no interest would be charged. However, if the debt is not paid by this time, interest of \$0.17 (2.0% of \$100 divided by 12 months) would be assessed on May 1, bringing the total bill now to \$100.17. On June 1, if still unpaid, the total bill would be \$100.34 (two months of interest applied against the original principal -  $\$0.17 + \$0.17 = \$0.34$ ).

Question 14: How is interest calculated when a debtor has entered into a repayment plan with the SA?

Answer: Interest should be charged at an annual rate of 2% (CVFR). States should consult their respective finance offices for specific details concerning generally accepted accounting practices for determining interest computations.

Question 15: Is there a separate account for interest, or is it returned to the Program account?

Answer: The full amount of total collections received (principal plus interest) is returned to FNS with amounts identified separately. Amounts must be reported separately since in most cases principal collections are returned to the appropriation account, while interest collections are always returned to Treasury.

Question 16: When payments are received, how should amounts collected be recorded in states' accounting records?

Answer: Payments received should be applied first to interest, then to any remaining principal amount. For example, a sponsor owing \$1,150.00 (original overclaim of \$1,000 plus \$150.00 in charged interest) sends the state a check for \$1,000. The SA first applies \$150.00 to the interest owed, and \$850.00 is applied to the principal amount. The sponsor would still owe the state \$150.00 in principal.

Question 17: What process should states use for sending out billing letters?

Answer: States should follow the minimum collection requirements stated in 226.14(a) of the CACFP regulations. Samples of billing letters containing the necessary language were distributed during the training sessions conducted by the Child Nutrition Division last summer.

Question 18: Since there are a number of technical and policy questions about assessing interest, can we suspend implementation of this provision until after guidance is issued?

Answer: No. The assessment of interest on debts was not one specifically exempted from the July 29, 2002, implementation date.

Question 19: If a SA or family day care home sponsor identifies a provider overclaim during a facility review, does the sponsor assess interest on the provider owed debt?

Answer: No. The interim rule's debt recovery provisions result from the changes made by the Agriculture Risk Protection Act (ARPA). These changes apply only to institutions. When the SA or sponsor identifies a provider overclaim during a facility review, the provider's debt would be immediately offset against its pending claim without offering the provider the right to appeal the recovery. Since the offset is immediate, the need to assess interest for an unpaid debt is moot. A sponsor's right to immediately offset pending claims applies to all facilities, i.e., sponsored centers and day care homes.

Question 20: Can the SA or sponsor charge the facility interest when the recovery of the facility's debt requires offsets to more than one claim or the facility is no longer participating in the CACFP?

Answer: No. The requirement to charge interest only applies to institution debt, not to facility debts.

Question 21: If the SA determines the sponsor's claim editing system is inadequate and has resulted in facility overclaims, does the SA assign the overclaim to the sponsor and assess interest or assign the overclaim to the facilities?

Answer: Since the overclaim results from the sponsor's failure to properly administer the Program, the SA would assess the overclaim against the sponsor, even though the sponsor would recover the funds from the providers.

Question 22: If the provider's overclaim was assessed against the sponsor and interest accrued, can the sponsor recover the interest charges from the providers?

Answer: A provider's overclaim should only be assessed against the sponsor when the SA determines the sponsor has failed to act properly. For example, the SA identifies a provider overclaim during a review, but the sponsor refuses to pursue recovery of the overclaim. In this case, the SA would properly assess the overclaim against the sponsor. Any interest that accrues on this debt is the sponsor's responsibility, not the provider's.

Question 23: Can CACFP funds be used to pay the accrued interest?

Answer: No. Nonfederal funds must be used to pay the accrued interest.

Question 24: Doesn't the current FM instruction for the CACFP already address interest on pages 94 - 96 (Section IX, D 6 b and 7)?

Answer: The interest discussed in this section of the Instruction is interest earned by institutions on Program funds, not interest owed by the institution for unpaid debts.

Question 25: How should SAs report the interest?

Answer: SA should report the interest with every check that they submit. The SA needs to give a breakdown (on the check stub) of what portion of the check should be applied to interest and what portion should be applied to the principal. If the interest is being collected through the Automated Standard Application for Payments (ASAP), the Regional Office will set up two receivables (one for principal and one for interest). Again, SAs will need to forward the Regional Office a written notification (e.g. email) dictating what amount should be interest and what amount should be principal.

Question 26: How often should SAs forward collections?

Answer: SAs should forward debt collections consistent with their internal guidelines and operating agreements with Regional Offices. At a minimum, all collections and interest received during the year should be forwarded at the end of the Federal fiscal year.

CACFP regulations do not specify the frequency with which SAs report collections, and, without specific regulations, FNS cannot impose a reporting interval that is more frequent than required for Federal fiscal year reconciliation. The state's Finance Officer may impose internal standards for more frequent reporting.

Question 27: When returning funds through ASAP, does a separate code, for interest, need to be set up in ASAP?

Answer: No. There is no separated code in ASAP for interest. When returning funds in ASAP, the total amount, principal and interest, is returned via a negative draw. The SA must provide the Regional Office the breakout of the principal and interest (e.g., email).

Question 28: Can the interest on Program debts be treated as Program income and reported on the SF-269?

Answer: Interest on Program debts cannot be treated as Program income. The interest needs to be footnoted and the principal reported as a negative draw (returned payment) on the SF-269.

Question 29: Is there any difference in reporting interest on a current year claim vs. a prior year claim?

Answer: Since all interest goes back to Treasury, you will still have to break out the principal vs. interest for both current year and prior year claims. Return the whole amount to the one account you have in ASAP and note it on your report.

The formula to manually calculate interest is:

**Principal Amount X Rate / 12 = Monthly Interest Amount**

For example:

**1,500 X 2.000% = 30**

**30 / 12 = 2.50**

**\$2.50 of interest would be owed for the first month.**

**Use an Excel spreadsheet to create an amortization schedule to determine the monthly principal and interest amounts:**

**Amortization Schedule**

**Principal**    \$1,500.00  
**Interest**     2.000%     0  
**Payment**    \$150.00

	<u>Payment</u>	<u>Interest</u>	<u>Total Interest</u>	<u>Principal Balance</u>
				1,500.00
1	150.00	2.50	2.50	1,352.50
2	150.00	2.25	4.75	1,204.75
3	150.00	2.01	6.76	1,056.76
4	150.00	1.76	8.52	908.52
5	150.00	1.51	10.04	760.04
6	150.00	1.27	11.30	611.30
7	150.00	1.02	12.32	462.32
8	150.00	0.77	13.09	313.09
9	150.00	0.52	13.62	163.62
10	150.00	0.27	13.89	13.89
11	150.00	0.02	13.91	(136.09)

**The amount applied to interest decreases with each payment because the principal balance decreases with each payment. The total monthly payment will depend on negotiations with the debtor. In this example, the debtor would make 10 payments of \$150 each and a final payment of \$13.91.**

**Excel contains an amortization schedule program. Please contact the Regional Office to obtain this if necessary.**



